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Chapter No. 358

18/SS01/R779

AR / TB / RC

SENATE BILL NO. 2277

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2277

AN ACT TO AMEND SECTIONS 63-21-15 AND 63-21-39, MISSISSIPPI CODE OF 1972, TO REMOVE THE PROVISIONS THAT AUTHORIZE A VEHICLE WITH A SALVAGE CERTIFICATE OF TITLE TO RECEIVE A CLEAR TITLE IF CERTAIN REQUIREMENTS ARE MET AND PROVIDE THAT SUCH A VEHICLE MAY ONLY RECEIVE A BRANDED TITLE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-21-15, Mississippi Code of 1972, is amended as follows:

63-21-15. (1) The application for the certificate of title of a vehicle, manufactured home or mobile home in this state shall be made by the owner to a designated agent, on the form the * * * Department of Revenue prescribes, and shall contain or be accompanied by the following, if applicable:

(a) The name, driver's license number, if the owner has been issued a driver's license, current residence and mailing address of the owner;

(b) (i) If a vehicle, a description of the vehicle, including the following data: year, make, model, vehicle identification number, type of body, the number of cylinders,

odometer reading at the time of application, and whether new or used; and

(ii) If a manufactured home or mobile home, a description of the manufactured home or mobile home, including the following data: year, make, model number, serial number and whether new or used;

(c) The date of purchase by applicant, the name and address of the person from whom the vehicle, manufactured home or mobile home was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(d) In connection with the transfer of ownership of a manufactured home or mobile home sold by a sheriff's bill of sale, a copy of the sheriff's bill of sale;

(e) (i) An odometer disclosure statement made by the transferor of a motor vehicle. The statement shall read:

"Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fine and/or imprisonment.

I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the actual mileage of the vehicle described herein, unless one (1) of the following statements is checked:

_____ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

_____ (2) I hereby certify that the odometer reading is not the actual mileage. WARNING-ODOMETER DISCREPANCY!"

(ii) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title, which form shall be prescribed and furnished by the * * * Department of Revenue. This written disclosure must be signed by the transferor and transferee, including the printed name of both parties.

Notwithstanding the requirements above, the following exemptions as to odometer disclosure shall be in effect:

1. A vehicle having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds.
2. A vehicle that is not self-propelled.
3. A vehicle that is ten (10) years old or older.
4. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.
5. A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(iii) Any person who knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of up to One Thousand Dollars (\$1,000.00) or imprisonment of up to one (1) year, or both, at the discretion of the court. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law; and

(f) For previously used manufactured homes and mobile homes that previously have not been titled in this state or any other state, a disclosure statement shall be made by the owner of the manufactured home or mobile home applying for the certificate of title. That statement shall read:

"I state that the previously used manufactured home or mobile home owned by me for which I am applying for a certificate of title, to the best of my knowledge:

_____ (1) Has never been declared a total loss due to flood damage, fire damage, wind damage or other damage; or

_____ (2) Has previously been declared a total loss due to:

_____ (a) Collision;

_____ (b) Flood;

_____ (c) Fire;

_____ (d) Wind;

_____ (e) Other (please describe): _____

_____."

(2) The application shall be accompanied by such evidence as the * * * Department of Revenue reasonably requires to identify the vehicle, manufactured home or mobile home and to enable the * * * Department of Revenue to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle, manufactured home or mobile home and whether the applicant is liable for a use tax as provided by Sections 27-67-1 through 27-67-33.

(3) If the application is for a vehicle, manufactured home or mobile home purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and it shall be signed by the dealer as well as the owner. The designated agent shall promptly mail or deliver the application to the * * * Department of Revenue.

(4) If the application is for a new vehicle, manufactured home or mobile home, it shall contain the certified manufacturer's statement of origin showing proper assignments to the applicant and a copy of each security interest document.

(5) Each application shall contain or be accompanied by the certificate of a designated agent that the vehicle, manufactured home or mobile home has been physically inspected by him and that the vehicle identification number and descriptive data shown on the application, pursuant to the requirements of subsection (1)(b)

of this section, are correct, and also that he has identified the person signing the application and witnessed the signature. If the application is to receive * * * a branded title for a vehicle for which a salvage certificate of title has been issued, the application shall be accompanied by a sworn affidavit that the vehicle complies with the requirements of this section, Section 63-21-39 and the regulations promulgated by the * * * Department of Revenue under Section 63-21-39.

(6) If the application is for a first certificate of title on a vehicle, manufactured home or mobile home other than a new vehicle, manufactured home or mobile home, then the application shall conform with the requirements of this section except that in lieu of the manufacturer's statement of origin, the application shall be accompanied by a copy of the bill of sale of said motor vehicle, manufactured home or mobile home whereby the applicant claims title or in lieu thereof, in the case of a motor vehicle, certified copies of the last two (2) years' tag and tax receipts or in lieu thereof, in any case, such other information the * * * Department of Revenue may reasonably require to identify the vehicle, manufactured home or mobile home and to enable the * * * Department of Revenue to determine ownership of the vehicle, manufactured home or mobile home and the existence or nonexistence of security interest in it. If the application is for a vehicle, manufactured home or mobile home last previously registered in another state or country, the application shall also be

accompanied by the certificate of title issued by the other state or country, if any, properly assigned.

(7) Every designated agent within this state shall, no later than the next business day after they are received by him, forward to the * * * Department of Revenue by mail, postage prepaid, the originals of all applications received by him, together with such evidence of title as may have been delivered to him by the applicants.

(8) An application for certificate of title and information to be placed on an application for certificate of title may be transferred electronically as provided in Section 63-21-16.

(9) The * * * Department of Revenue shall issue a certificate of title or any other document applied for under this chapter to the designated agent, owner or lienholder of the motor vehicle or of the manufactured home or mobile home, as appropriate, not more than thirty (30) days after the application and required fee prescribed under Section 63-21-63 or Section 63-21-64 are received unless the applicant requests expedited processing under subsection (10) of this section.

(10) (a) The * * * Department of Revenue shall establish an expedited processing procedure for the receipt of applications and the issuance of certificates of title and any other documents issued under this chapter, except a replacement certificate of title as provided under Section 63-21-27(2), for motor vehicles and for manufactured homes or mobile homes. Any designated agent,

lienholder or owner requesting the issuance of any such document, at his or her option, shall receive such expedited processing upon payment of a fee in the amount of Thirty Dollars (\$30.00). Such fee shall be in addition to the fees applicable to the issuance of any such documents under Section 63-21-63 and Section 63-21-64.

(b) When expedited title processing is requested, the applicable fees are paid and all documents and information necessary for the * * * Department of Revenue to issue the certificate of title or other documents applied for are received by the * * * department, then the * * * department shall complete processing of the application and issue the title or document applied for within seventy-two (72) hours of the time of receipt, excluding weekends and holidays.

SECTION 2. Section 63-21-39, Mississippi Code of 1972, is amended as follows:

63-21-39. (1) (a) An owner who scraps, dismantles or destroys a vehicle and a person who purchases a vehicle as scrap or to be dismantled or destroyed shall indicate same on the back of the certificate of title and shall immediately cause the certificate of title and any other documents required by the Department of Revenue to be mailed or delivered to the Department of Revenue for cancellation. A certificate of title of the vehicle shall not again be issued except upon application containing the information the Department of Revenue requires, accompanied by a certificate of inspection in the form and content

specified in Section 63-21-15(5) and proof of payment of a fee as provided in subsection (2) of this section.

(b) Notwithstanding any other provision of this chapter to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, has lost the title for the vehicle to be transferred, or has returned the title to the Department of Revenue in accordance with Section 63-21-39(1)(a), he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is at least ten (10) model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer or scrap metal processor. The department shall promulgate a form for the statement which shall include, but not be limited to:

(i) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

(ii) A description of the vehicle including the year, make, model and vehicle identification number;

(iii) The name, address, and driver's license number of the owner;

(iv) A certification that the owner:

1. Never obtained a title to the vehicle in his or her name; or

2. Was issued a title for the vehicle, but the title was lost or stolen;

(v) A certification that the vehicle:

1. Is at least ten (10) model years old; and
2. Is not subject to any security interest or

lien;

(vi) An acknowledgment that the owner and buyer of the vehicle realizes this form will be filed with the department and that:

1. It is a misdemeanor, punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both, for conviction of a first offense of knowingly falsifying any information on this statement; and

2. It is a felony, punishable by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) or imprisonment for not less than one (1) year nor more than five (5) years, or both, for conviction of a second or subsequent offense of knowingly falsifying any information on this statement;

(vii) The owner's signature and the date of the transaction;

(viii) The name and address of the business acquiring the vehicle;

(ix) The National Motor Vehicle Title Information System identification number; and

(x) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

(c) Until such time as the department makes available an Internet-based system, the used motor vehicle parts dealer or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (b) of this subsection (1) to the Department of Revenue within three (3) business days of the completion of the transaction, requesting that the department cancel the Mississippi certificate of title and registration. Once the department develops an Internet-based system, the used motor vehicle parts dealer or scrap metal processor shall utilize such system and within two (2) business days electronically submit the information contained in the statement using that system.

(d) Within two (2) business days of each day's close of business, the used motor vehicle parts dealer or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver in a format approved by the department, by electronic means once developed and made available by the department, a list of all such vehicles purchased that day for scrap or for parts. That list shall contain the following information:

(i) The name, address and contact information for the reporting entity;

(ii) The vehicle identification numbers of such vehicles;

(iii) The dates such vehicles were obtained;

(iv) The names of the individuals or entities from whom the vehicles were obtained, for use by law enforcement personnel and appropriate governmental agencies only;

(v) A statement of whether the vehicles were, or will be, crushed or disposed of, or offered for sale or other purposes;

(vi) A statement of whether the vehicle is intended for export out of the United States; and

(vii) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle.

(e) (i) For purposes of this subsection, the term "motor vehicle" shall not include a vehicle which has been crushed or flattened by mechanical means such that it is no longer the motor vehicle as described by the certificate of title, or such that the vehicle identification number is no longer visible or accessible.

(ii) In cases in which crushed or flattened vehicles are purchased or received, the purchasing or receiving used motor vehicle parts dealer or scrap metal processor shall verify that the seller has reported the vehicles in accordance with this subsection. Such verification may be in the form of a

certification from the seller or a contract between the seller and the purchasing or receiving used motor vehicle parts dealer or scrap metal processor attesting to the seller's compliance with the reporting requirements of this subsection. Such verification must clearly identify the seller by a government issued photograph identification card or employer identification number, and the verification and copy of the identification card or number shall be maintained by the purchasing or receiving used motor vehicle parts dealer or scrap metal processor for a period of not less than two (2) years.

(f) The information obtained by the department in accordance with paragraph (d) of this subsection (1) shall be reported to the National Motor Vehicle Title Information System, in a format that will satisfy the requirement for reporting this information, in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

(g) Until such time as the department develops and makes available the Internet-based system described in paragraph (d) of this subsection, the used motor vehicle parts dealer or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver the information required by paragraph (d) to the National Motor Vehicle Title Information System through any data consolidator approved by such system, within forty-eight (48) hours of the day the vehicle was purchased

or acquired by such used motor vehicle parts dealer or scrap metal processor which shall satisfy the requirements of paragraph (d).

(h) The information obtained by the department in accordance with paragraph (d) of this subsection (1) shall be made available only to law enforcement agencies and for purposes of canceling certificates of title. The information shall otherwise be considered to be confidential business information of the respective reporting entities.

(i) All records required under the provisions of this subsection shall be maintained for a period of two (2) years by the reporting entity and shall include a scanned or photocopied copy of the seller's or seller's representative's driver's license or state-issued identification card.

(j) A person who knowingly and willfully violates this subsection (1), or any person who knowingly and willfully falsifies or assists another person in falsifying the statement or information required under paragraphs (b) or (d) of this subsection, or any person who knowingly and willfully sells a vehicle upon which there is an unsatisfied lien or security interest, or who purchases a vehicle without complying with either subsection (1)(a) or (1)(b) of this section and who knowingly and willfully destroys or dismantles a vehicle upon which he knows that there is an unsatisfied lien or security interest shall:

(i) Be guilty of a misdemeanor, punishable by a fine not more than One Thousand Dollars (\$1,000.00) or

imprisonment for not more than six (6) months, or both, for conviction of a first offense; or

(ii) Upon conviction of a second or subsequent offense, a felony, punishable by imprisonment for not less than one (1) year nor more than five (5) years or a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or both.

In addition, the court may order each person convicted to pay restitution to any party suffering monetary loss in the amount of such loss. No part of any sentence imposed by the court shall be suspended unless such restitution has been paid in full.

(k) A person who knowingly and willfully fails to deliver the title as required under paragraph (a) of this subsection, or the statement required under paragraph (b) of this subsection to the Department of Revenue within seventy-two (72) hours of the completion of the transaction, or who, until such time as the department develops and makes available the Internet-based system described in paragraph (d), fails to deliver the information required by paragraph (d) to the National Motor Vehicle Title Information System through any data consolidator approved by such system, within two (2) business days of the day the vehicle was purchased or acquired by such used motor vehicle parts dealer or scrap metal processor shall be in violation of this section, and subject to a civil penalty of up to One Thousand Dollars (\$1,000.00) per violation. Actions to impose this penalty

may be brought by any local or state law enforcement agency, district attorney, or by the Attorney General, in any court of competent jurisdiction. One-half (1/2) of the monies generated from such civil penalties shall be deposited in a special fund created in the State Treasury for use by the Department of Revenue's Title Bureau, and one-half (1/2) of the monies generated from such civil penalties shall be deposited in the general fund of the municipality if the suit was brought in a municipal court, or in the general fund of the county if the suit was brought in the court of a county.

(2) For the purpose of requesting * * * a branded title on a vehicle with a salvage certificate of title, every owner of a vehicle that has been issued a salvage certificate of title in this state or any other state which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to be issued shall make application to the Department of Revenue, accompanied by a certificate of inspection issued by the Department of Public Safety in the form and content specified in Section 63-21-15(5) and the payment of a fee of Seventy-five Dollars (\$75.00) for each motor vehicle for which a certificate of inspection is issued. In addition, the Department of Public Safety may charge such a person a fee in the amount of Twenty-five Dollars (\$25.00) for performing any vehicle identification number verification required by federal law or regulation for the vehicle for which the person is applying

for a title. All such monies shall be collected by the Department of Public Safety and paid to the State Treasurer for deposit in a special fund that is hereby created in the State Treasury to be known as the "Salvage Certificate of Title Fund." Monies in the special fund may be expended by the Department of Public Safety, upon appropriation by the Legislature. The Department of Revenue shall establish by regulation the minimum requirements by which a vehicle which has been issued a salvage certificate of title may be issued a * * * branded title.

(3) Before * * * a branded title may be issued for a vehicle for which a salvage certificate of title has been issued, the applicant shall submit, by hand delivery or mail, such documents and information to the Department of Public Safety as the department may require for the purpose of determining if the vehicle complies with the requirements of this section and all applicable regulations promulgated by the Commissioner of Public Safety and the Department of Revenue. The Department of Public Safety also may require that an applicant bring a vehicle for which application for * * * a branded title is being made to a Highway Patrol facility for a visual inspection whenever the department deems that a visual inspection is necessary or advisable. Nothing in this section shall be construed to prohibit inspectors of the Mississippi Highway Patrol from conducting on-site inspections and investigations of motor vehicle rebuilders or motor vehicle repair businesses to determine if such businesses

are in compliance with all applicable laws relating to the motor vehicle title laws of this state and regulations promulgated by the Commissioner of Public Safety and the Department of Revenue.

SECTION 3. This act shall take effect and be in force from and after July 1, 2018.

PASSED BY THE SENATE
February 1, 2018



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 6, 2018



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/15/18

2:41pm